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HOUSE BILL 2238 By  
Odom

SENATE BILL 2254  
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5, Part 4, relative to contracts for future funeral services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 5, Part 4, is amended by adding the following new sections thereto:

Section 62-5-410. There is created a nonprofit entity to be known as the Tennessee comprehensive funeral services pool. All persons, associations, partnerships, firms, or corporations that enter into an agreement, contract or plan for the final disposition of a dead human body and that require the payment of money in advance, whether in a lump sum or in installments, shall be members of the pool.

Section 62-5-411. The pool shall collect premiums from each member of the pool. A premium shall be collected for each agreement, contract or plan for the final disposition of a dead human body that requires the payment of money in advance. Such premium shall be in addition to any contract amount agreed upon by the parties. The entire premium shall be remitted to the pool within seventy-two (72) hours of receipt of such premium.

Section 62-5-412.

(a) The pool shall be administered by the commissioner of commerce and insurance, or the commissioner's designee. Following the close of each fiscal year, the commissioner shall prepare a report analyzing the pool's projected revenues and expenditures and funding requirements.

(b) Should the pool's claims payments and other expenses exceed the premiums collected, the pool members shall be assessed by the commissioner for the amount of the shortfall.

(c) Each pool member shall be assessed according to the number of preneed funeral contracts of such pool member the prior fiscal year.

Section 62-5-413. The pool shall pay the funeral expenses as agreed upon in the contract for all persons who are subject to fraud or whose provider of funeral services is unable or unwilling to provide the agreed-upon funeral services. Benefits payable to individuals shall not exceed the amount agreed upon in the contract or agreement. No collateral or ancillary damages shall be payable from the pool.

Section 62-5-414. The pool has the specific authority to:

(1) Enter into contracts as are necessary or proper to carry out the provisions of this act;

(2) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool. For the purposes of this act, the Tennessee comprehensive funeral services pool is considered to be an instrumentality of the state for purposes of being represented by the attorney general and reporter, pursuant to §8-6-109;

(3) Request an annual audit by the comptroller of the treasury or, with the written approval of the comptroller of the treasury, contract with an independent certified public accountant for the audit; and

(4) Determine the eligibility requirements for aggrieved persons and their personal representatives in accordance with this act.

Section 62-5-415. The commissioner of commerce and insurance shall annually prescribe the premium to be paid by members of the pool. The determination of the amount of the premium shall be made no later than sixty (60) days prior to such premium being effective. Notice shall be given to all funeral directors and embalmers licensed pursuant to this chapter. All expenses of the commissioner for the implementation and administration of this act shall be paid from the comprehensive funeral services pool.

Section 62-5-416. For the purpose of implementing the provisions of this act, the commissioner may promulgate rules and regulations pursuant to Title 4, Chapter 5.

Section 62-5-417. A violation of this part is a Class C misdemeanor.

SECTION 2. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes it shall take effect January 1, 2003, the public welfare requiring it.